



3673  
DOCKET NO. K-1775  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: ROBERT H. MONTGOMERY, JR.  
Serial No. 09/742,715  
Filing Date: December 20, 2000  
For: MANUALLY REPLACEABLE PROTECTIVE WEAR SLEEVE  
GROUP ART UNIT: 3673  
EXAMINER: Sunil Singh

HON. ASSISTANT COMMISSIONER FOR PATENTS  
Box No-Fee Amendment  
Washington, DC 20231

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November 20, 2002

Sir: TRANSMITTAL SHEET

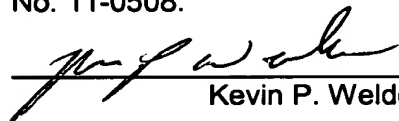
1. Transmitted herewith is a response to Election/Restriction Requirement in the above-identified application. Enclosed are:

[X] Response to Election/Restriction Requirement Mailed October 29, 2002

2. Applicant is other than a small entity.  
3. No additional fee for claims is required.

4. [x] Charge to Deposit Account No. 11-0508 \$0  
[x] A duplicate copy of this letter is enclosed.

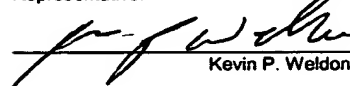
The Commissioner is hereby authorized to charge any additional fees included in 37 CFR 1.16 and 1.17 which may be required, or credit any overpayment, to Deposit Account No. 11-0508.

  
Kevin P. Weldon

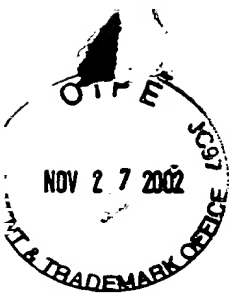
Date: November 20, 2002

**CERTIFICATE OF MAILING**

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Kevin P. Weldon

Date: November 20, 2002



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I hereby certify that this correspondence is being deposited with the United States Postal Service via First-Class Mail, in an envelope addressed to Assistant Commissioner for Patents, Box No-Fee Amendment, Washington, DC 20231, on November 20, 2002, by Kevin P. Weldon, Registered Representative.

  
Kevin P. Weldon

Date: November 20, 2002

#10  
Election  
20  
12/10/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)
ROBERT H. MONTGOMERY, JR.	) Group Art Unit 3673
Serial No. 09/742,715	) Examiner
Filed: December 20, 2000	) Sunil Singh
For: MANUALLY REPLACEABLE	)
PROTECTIVE WEAR SLEEVE	) November 20, 2002

HON. ASSISTANT COMMISSIONER FOR PATENTS  
Box No-Fee Amendment  
WASHINGTON, DC 20231

Sir:

LETTER RESPONSIVE TO ELECTION/RESTRICTION REQUIREMENT

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This letter is in response to the Examiner's Election/Restriction Requirement, mailed in a communication on October 29, 2002. Applicant first wants to draw the Examiner's attention to the fact that the Examiner previously issued an office action, dated February 26, 2002, on the merits, treating all the pending claims at that time, claims 1-16. Applicant, in response to the Examiner's first Office Action, submitted an amendment on August 9, 2002.

In the office communication of October 29, 2002, the Examiner requested applicant to elect one of two potentiality distinct inventions under 35 USC 121. The Examiner identified and grouped two inventions, Group I a protective sleeve, and Group II a tool holder.

The applicant elects Group II, drawn to a tool holder. This election of Group II is made with traverse.

The applicant respectfully submits that there is not a significant burden placed on the Examiner if no restriction is made and the Examiner treats all the claims on their merits, see MPEP 811, 810.02 and 803. The applicant has elected the tool holder combination, Group II. The tool holder, Group II, in claims 6-8,

recites many of the same "particulars" for the sleeve recited in the sleeve claims of Group I. Accordingly, the Examiner must take into consideration at least most of the limitations set forth in the claims of Group I in the prosecution of the elected invention of Group II. Further, as indicated above, the Examiner has already treated some the sleeve claims and lenition therein in the Office Action mailed February 26, 2002.

In MPEP 806.05(c), the criteria for a proper restriction of a distinct combination and subcombination is described. One of the requirements is that the subcombination must have separate utility. In the restriction requirement, the Examiner writes that the sleeve has separate utility as a "hole protector". It is unclear how this utility is distinguishable from the function of the sleeve in the present invention. The sleeve in the claimed combination is for the purpose of protecting the bore from wear caused by the cutter bit. The Examiner is requested to set forth his position in this regard in more detail.

It is respectfully submitted that the Examiner's restriction requirement is improper and that it be withdrawn, and claims 1-9 and 12-24 be treated on their merits.

The Commissioner is hereby authorized to charge any fees, including additional filing fees required under 37 CFR 1.16 and 1.17, in connection with this submission to Kennametal Inc. corporate Deposit Account 11-0508.

Respectfully submitted,



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Attorney for Applicant(s)  
Registration No. 47,307  
Date: November 20, 2002

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